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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,844	07/03/2003	Seth R. Banks	15GS4861	6936
7590 Michael A. Jaskolski Quarles & Brady, LLP 411 East Wisconsin Avenue Milwaukee, WI 53202			EXAMINER PESIN, BORIS M	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 06/16/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/612,844

**Applicant(s)**

BANKS ET AL.

**Examiner**

BORIS PESIN

**Art Unit**

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date 7/03/2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-30 are rejected on the ground of nonstatutory double patenting over claims 1-17 of U. S. Patent No. 6603494 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Patent application 6603494 and the current application similarly claim a user interface for a medical imaging system.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 15, 16, 23-25 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Saito et al. (US 5954650).

In regards to claim 1, Sato teaches a medical imaging system comprising: a data acquisition system of a specific modality including at least one sensor for sensing signals of the specific modality emanating from an object being imaged wherein the modality is one of radiography, fluoroscopy, angiography, magnetic resonance imaging, ultrasound, nuclear medicine, positron emission tomography and computer tomography; (See Figure 3, Element 25)

an interface usable with at least first and second acquisition systems where the first and second acquisition systems are of first and second different modalities,

respectively (See Figure 1, X-Ray and MRI), the interface linked to one of the first and second acquisition systems, the interface comprising:

- a display (See Figure 1);

- a programmed data processor providing a uniform interface image on the display despite the linked acquisition system modality (See Figure 1), the uniform interface image comprising:

- a function navigation space including function icons corresponding to set of data acquisition procedures which are common to each of the first and second modalities wherein, at least one of the procedures that is common to the first and second modalities includes at least one procedure-specific subprocess (See Figure 1, Elements 7-13);

- a workspace adjacent the function navigation space for displaying, analyzing and manipulating images (See Figure 1, Element 5); and

- a pointing device for selecting displayed icons (See Figure 3, Element 24);

- wherein, when an icon is selected, the processor correlates the selected icon with a corresponding data acquisition activity and performs the activity (See Figure 2, Elements 7-13, when any of those icons are selected, data is changed and thus is "acquired.").

Claims 15 and 16 are similar in scope to the limitations described in claim 1; therefore they rejected under similar rationale.

Claims 23-25 are similar in scope to the limitations described in claim 1; therefore they rejected under similar rationale.

Claim 30 is similar in scope to claim 1; therefore, it is rejected under similar rationale.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-8, 17-19, 21, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito in view of Jolissaint et al. (US 5455903).

In regards to claim 2, Saito teaches the system of claim 1. Saito does not specifically teach a system wherein functions corresponding to each of the acquisition modalities are typically performed in an exemplary workflow pattern including a series of sequential steps and the function icons are arranged in an order of the exemplary workflow pattern. However Saito does teach that the acquisition is done in a workflow pattern (See Figure 3). Jolissaint teaches functions corresponding to data performed in

an exemplary workflow pattern including a series of sequential steps and the function icons are arranged in an order of the exemplary workflow pattern (See Figure 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito with the teachings of Jolissaint and include functions in a workflow pattern with the motivation to provide the user with a more convenient method of figuring out what the system is supposed to be doing.

In regards to claim 3, Saito-Jolissaint teach the system of claim 2 wherein the function icons are arranged in a single column (See Saito Figure 2).

In regards to claim 4, Saito-Jolissaint teach the system of claim 2 wherein the function icons include a patient information icon and an acquire icon (See Saito Figure 1, Elements 3 and 7-13).

In regards to claim 5, Saito-Jolissaint teach the system of claim 4 wherein the function icons also include a view/film icon, an analyze icon and a close icon (See Figure 1, Saito Elements 3 and 7-13).

In regards to claim 6, Saito-Jolissaint teach the system of claim 1 wherein the workspace includes a workflow navigation space in which, when a function icon is selected, the processor displays a workflow icon set including a separate workflow icon corresponding to each subprocess of the process associated with the selected function icon and for the linked acquisition system modality (See Saito Figure 11).

In regards to claim 7, Saito-Jolissaint teach the system of claim 6 wherein the subprocesses of each procedure typically are performed in an exemplary workflow

pattern including a series of consecutive steps and the workflow icons are arranged in an order of the exemplary workflow pattern (See Saito Figure 11).

In regards to claim 8, Saito-Jolissaint teach the system of claim 7 wherein the workflow icons are arranged in a single column (See Saito Figure 11).

Claim 17 is similar in scope to claim 2; therefore, it is rejected under similar rationale.

Claim 18 is similar in scope to claim 6; therefore, it is rejected under similar rationale.

Claim 19 is similar in scope to claim 7; therefore, it is rejected under similar rationale.

In regards to claim 21, Saito-Jolissaint teach the method of claim 18 wherein the workflow icons include a setup icon which corresponds to the process of positioning a patient for imaging, when the setup icon is selected, the method further including the step of providing a position window in the workspace and providing an image of a properly positioned patient in the position window (See Saito Figure 1).

Claim 26 is similar in scope to claim 2; therefore, it is rejected under similar rationale.

Claim 27 is similar in scope to claim 3; therefore, it is rejected under similar rationale.

Claim 28 is similar in scope to claim 6; therefore, it is rejected under similar rationale.



Claim 29 is similar in scope to claim 7; therefore, it is rejected under similar rationale.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6847336	Lemelson et al.
US 6734880	Chang et. al.
US 5452416	Hilton et. al.

### ***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BORIS PESIN whose telephone number is (571)272-4070. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571)272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Boris Pesin/  
Primary Examiner, Art Unit 2174